

REMSSEN

IC100U

Organization IC100U Bldg./Room

U. S. DEPARTMENT OF COMMERCE

COMMISSIONER FOR PATENTS

P.O. BOX 1450

ALEXANDRIA, VA 22313-1450

IF UNDELIVERABLE RETURN IN TEN DAYS

OFFICIAL BUSINESS

GRAU465 921242043 IN 24 04/08/05
RETURN TO SENDER

NO FORWARD ORDER ON FILE
UNABLE TO FORWARD
RETURN TO SENDER

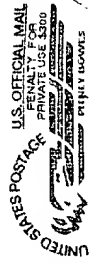


7406

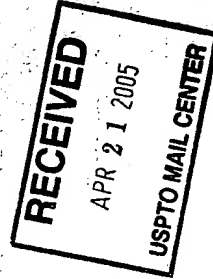


Not @ this address

AN EQUAL OPPORTUNITY EMPLOYER



U.S. OFFICIAL MAIL
PENALTY FOR
POSTAGE
DEFICIENCY
\$ 00.600
02 1A
0004204055 MAR 14 2005
MAILED FROM ZIP CODE 22314





UNITED STATES PATENT AND TRADEMARK OFFICE

1642
TFW

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/936,094	03/14/2002	Gerhart Graupner	524062000201	9290

7590

03/14/2005

Dr. Gerhart Graupner
President and CEO
Endiatrix BioPharma, Inc.
10465 El Comal Drive
San Diego, CA 92124

EXAMINER

CANELLA, KAREN A

ART UNIT

PAPER NUMBER

1642

DATE MAILED: 03/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

RECEIVED
APR 22 2005
OIFE/JCW/S

RECEIVED
APR 22 2005
OIFE/JCW/S

Office Action Summary

Application No.

09/936,094

Applicant(s)

GRAUPNER, GERHART

Examiner

Karen A. Canella

Art Unit

1642

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-55 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☐ Claim(s) ____ is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☒ Claim(s) 1-55 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

Art Unit: 1642

DETAILED ACTION

Claims 1-55 are pending.

Election/Restrictions

Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

Group 1, claim(s) 1-25, drawn to a drug delivery molecule.

Group 2, claim(s) 26-55, drawn to a method for selectively targeting an endothelial cell proximally located to an anomalous cell, a method of improving circulation, a method of improving vision and a method of improving a health condition, all methods comprising the administration of a compound that specifically binds to a somatostatin type II receptor on an endothelial cell.

The inventions listed as Groups 1 and 2 do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons: The claims are not unified by a special technical feature because the claims are obvious over the art. For instance, claims 26-28 and 30 are obvious over Hornik et al (US 6,355,613) in view of Woltering et al (US 6,180,082). Hornik et al teach the compound PTR 3205 (column 17, Table 3) as selective for the somatostatin type II receptor and as an anticancer agent for malignancies expressing the somatostatin type 2 receptor subtype. Woltering et al teach that high densities of somatostatin receptor subtype 2 have been found on cells from a wide variety of tumors including endocrine tumors, melanomas, breast carcinomas, Merkel cell tumors, lymphomas, small cell lung carcinomas, gastrointestinal tumors, astrocytomas, gliomas, meningiomas, carcinoid tumors, islet cell tumors, renal cell carcinomas, neuroblastomas, and pheochromocytomas (column 5, lines 7-37). Thus, it would be obvious to administer PTR 3205 to treat endocrine tumors, melanomas, breast carcinomas, Merkel cell tumors, lymphomas, small cell lung carcinomas, gastrointestinal tumors, astrocytomas, gliomas,

Art Unit: 1642


meningiomas, carcinoid tumors, islet cell tumors, renal cell carcinomas, neuroblastomas, and pheochromocytomas. Thus, the claims as a whole do not possess a special technical feature and therefore do not make a novel contribution over the art.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Karen A. Canella whose telephone number is (571)272-0828. The examiner can normally be reached on 10 a.m. to 9 p.m. M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey Siew can be reached on (571)272-0787. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Karen A. Canella, Ph.D.

3/10/2005

Notice of References Cited	Application/Control No. 09/936,094	Applicant(s)/Patent Under Reexamination GRAUPNER, GERHART	
	Examiner Karen A. Canella	Art Unit 1642	Page 1 of 1

U.S. PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Name	Classification
	A	US-6,355,613	03-2002	Hornik et al.	514/9
	B	US-6,180,082	01-2001	Woltering et al.	424/1.69
	C	US-			
	D	US-			
	E	US-			
	F	US-			
	G	US-			
	H	US-			
	I	US-			
	J	US-			
	K	US-			
	L	US-			
	M	US-			

FOREIGN PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Country	Name	Classification
	N					
	O					
	P					
	Q					
	R					
	S					
	T					

NON-PATENT DOCUMENTS

*		Include as applicable: Author, Title Date, Publisher, Edition or Volume, Pertinent Pages)
	U	
	V	
	W	
	X	

*A copy of this reference is not being furnished with this Office action. (See MPEP § 707.05(a).)
Dates in MM-YYYY format are publication dates. Classifications may be US or foreign.